

## Adoption Leave Policy

Policy Code:	HR21
Policy Start Date:	March 2021
Policy Review Date:	March 2024

Please read this policy in conjunction with the policies listed below:

- HR6 Data Protection Policy
- HR8 Equal Opportunities and Diversity Policy
- HR10 Redundancy Policy
- HR11 Pay Policy
- HR13 Managing Attendance and Leave of Absence Policy
- HR14 Paternity Leave Policy
- HR19 Maternity Leave Policy
- HR25 Flexible Working Policy
- HR33 Records Management Policy

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## **1. Policy Statement**

- 1.1 This policy outlines the statutory rights and responsibilities of employees who adopt a child, or children, and sets out the arrangements for adoption leave. It only applies to employees of the Trust and does not apply to agency workers or the self-employed.
- 1.2 This policy does not form part of any employee's contract of employment and it may be amended at any time.
- 1.3 This policy does not apply to agency workers, consultants or self-employed contractors.
- 1.4 References to the Trust or Academy within this policy specifically include all Primary, Secondary and Special Educational Needs academies within the Trust, as well as the Early Years setting at the Priory Witham Academy, Priory Training, Priory Apprenticeships, Lincolnshire Teaching School Alliance and Lincolnshire Teaching School Alliance SCITT.
- 1.5 The Trust is committed to leading a mentally healthy organisation, which includes a commitment to and promotion of emotional wellbeing and mental health. Therefore, all Trust policies and procedures ensure this commitment is incorporated in order to support all staff and students. Members of staff are encouraged to speak to their line managers if they feel any part of this policy would affect their emotional wellbeing and mental health. Any such comments should be passed to the Trust's HR department ([FederationHR@prioryacademies.co.uk](mailto:FederationHR@prioryacademies.co.uk)) for appropriate consideration at the next available point in the policy review cycle.

## **2. Roles, Responsibilities and Implementation**

- 2.1 The Pay, Performance and HR Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. This committee delegates day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Human Resource Director.
- 2.2 Managers have a specific responsibility to ensure the fair application of this policy and all employees are responsible for supporting colleagues and ensuring its success.

## **3. Aims**

- 3.1 This policy aims to ensure a fair and equal process for all members of staff seeking adoption leave.

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## 4. Definitions

4.1 The definitions in this paragraph apply in this policy:

- **Qualifying Week:** the week, starting on a Sunday, in which the employee is notified in writing by an adoption agency of having been matched with a child.
- **Expected Placement Date:** the date on which an adoption agency expects that it will place a child into the employee's care with a view to adoption.
- **Expected Return Date:** the date the employee is expected to return to work assuming they take their full entitlement to adoption leave.
- **Ordinary Adoption Leave (OAL):** a period of up to 26 weeks' leave available to all employees who qualify for adoption leave under paragraph 5.
- **Additional Adoption Leave (AAL):** a further period of up to 26 weeks' leave immediately following OAL.

## 5. Entitlement to Adoption Leave

5.1 Adoption leave is only available to an employee who is either:

- adopting through a UK or overseas adoption agency (for overseas adoptions see paragraph 7); or
- fostering a child with a view to possible adoption; or
- having a child through a surrogate mother.

It is not available if there is no agency involved, for example, if the employee is formally adopting a stepchild or other relative.

5.2 Employees are entitled to adoption leave, in adoption or fostering for adoption cases, if they meet all the following conditions:

- a) they are adopting a child through a UK adoption agency, or they are a local authority foster parent who has been approved as a prospective adopter;
- b) the adoption agency or local authority has given the written notice that it has matched them with a child for adoption, or that it will be placing a child with them under a fostering for adoption arrangement, and tells the employee the Expected Placement Date; and
- c) the employee has notified the agency that they agree to the child being placed on the Expected Placement Date.

5.3 Employees are entitled to adoption leave in surrogacy cases if they meet all the following conditions:

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- a) a surrogate mother gives birth to a child who is biologically the child of the employee, their spouse/partner or a child of both; and
  - b) the employee is expected to be given parental responsibility for the child under a parental order from the court. The child must live with the employee and the employee must apply for the parental order within six months of the child's birth.

5.4 Only one parent can take adoption leave. If an employee's spouse or partner takes adoption leave with their employer, the employee will not be entitled to take adoption leave but they may be entitled to paternity leave and/or shared parental leave.

## **6. Notification of Intention to Take Leave (Adoption)**

6.1 Employees must give the Trust notice in writing of:

- a) the Expected Placement Date; and
- b) their intended start date for adoption leave (Intended Start Date) (see section 9).

6.2 This notice must be given no more than seven days after the agency or local authority notified the employee in writing that it has matched them with a child. If seven days is not reasonably practicable, then the employee should inform the Trust as soon as is reasonably practicable. The Trust will then write to the employee within 28 days to inform the employee of their Expected Return Date.

6.3 At least 28 days before their Intended Start Date (or, if this is not possible, as soon as they can), the employee must also provide the Trust with:

- a) A Matching Certificate from the adoption agency (if applicable) confirming the:
  - agency's name and address; and
  - date the employee was notified of the match
- b) Expected Placement Date.
- c) Written confirmation that the employee intends to take statutory adoption leave and not statutory paternity leave.

## **7. Notification of Intention to Take Leave (Surrogacy)**

7.1 In surrogacy cases the employee must give the Trust notice in writing of the expected week of childbirth and their intention to take adoption leave. This must be done by the end of the 15<sup>th</sup> week before the expected week of childbirth, or if that is not reasonably practicable, as soon as is reasonably practicable.

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7.2 The Trust will then write to the employee within 28 days of receiving their notification, to confirm the employee's Expected Return Date.

7.3 When the child is born, the employee must tell the Trust the date of birth.

## **8. Overseas Adoptions**

8.1 Employees must have received notification that the adoption has been approved by the relevant UK authority (Official Notification).

8.2 Employees must give the Trust notice in writing of:

- a) their intention to take adoption leave;
- b) the date they received Official Notification; and
- c) the date the child is expected to arrive in Great Britain.

8.3 This notice must be given as early as possible but in any case within 28 days of receiving Official Notification.

8.4 If the employee has less than 26 weeks' employment with the Trust at the date of Official Notification, this notice must be given within 30 weeks of starting employment.

8.5 The employee must also give the Trust at least 28 days' notice in writing of their Intended Start Date. This can be the date the child arrives in Great Britain or a predetermined date no more than 28 days after the child's arrival in Great Britain.

8.6 The employee must also notify The Trust of the date the child arrives in Great Britain within 28 days of that date.

8.7 The Trust may also ask for a copy of the Official Notification and evidence of the date the child arrived in Great Britain.

## **9. Adoption/Surrogacy Appointments**

9.1 The main adopter is entitled to 5 working days (6.5 hours per working day, including travel and waiting time) leave for adoption appointments. The secondary adopter will be entitled to take unpaid time off up to 2 appointments. The main adopter is the parent intending to take adoption leave and not paternity leave.

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- 9.2 In surrogacy cases, parents are entitled to accompany a surrogate to 2 antenatal appointments, which will be unpaid.
- 9.3 The employee is required to give as much notice of the appointment as possible. They must provide their manager with a signed statement or an email confirming:
- a) The date and time of the appointment.
  - b) That the appointment has been arranged or requested by the adoption agency.
  - c) Whether they are adopting a child alone or jointly with another person.
- 9.4 The employee may sometimes be asked to try and rearrange an appointment where it is reasonable to do so. In exceptional circumstances the Trust reserves the right to refuse a request for a particular appointment but it will not do so without good reason.
- 10. Starting Adoption Leave**
- 10.1 in adoption or fostering for adoption cases, OAL may start on a predetermined date no more than 14 days before the Expected Placement Date, or on the date of placement itself, but no later.
- 10.2 The employee must notify the Trust of their Intended Start Date in accordance with section 5. The Trust will then write to the employee within 28 days to inform them of the date the Trust expects them to return to work if the employee takes their full entitlement to adoption leave (Expected Return Date).
- 10.3 The employee can postpone their Intended Start Date by informing the Trust in writing at least 28 days before the original Intended Start Date or, if that is not possible, as soon as they can.
- 10.4 The employee can bring forward their Intended Start Date by informing the Trust in writing at least 28 days before the new Intended Start Date or, if that is not possible, as soon as they can.
- 10.5 The Trust will then then write to the employee within 28 days to inform them of the new Expected Return Date.
- 10.6 In surrogacy cases, OAL will start on the day the child is born, unless the employee is at work, in which case, it will start on the following day. The employee cannot change the start date.

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10.6 Shortly before an employee's adoption leave starts, the Trust will discuss with them the arrangements for covering their work and the opportunities for them to remain in contact, should they wish to do so, during their leave. Unless the employee requests otherwise, they will remain on circulation lists for internal news, job vacancies, training and work-related social events.

## **11. Statutory Adoption Pay**

11.1 Statutory Adoption Pay (SAP) is payable for up to 39 weeks. It stops being payable if the employee returns to work sooner or if the placement is disrupted. Employees are entitled to SAP if:

- a) they have been continuously employed for at least 26 weeks at the end of their Qualifying Week and are still employed by the Trust during that week;
- b) their average weekly earnings during the eight weeks ending with the Qualifying Week (the Relevant Period) are not less than the lower earnings limit set by the Government; and
- c) they have given the Trust the relevant notifications under section 5.

11.2 Statutory Adoption Pay (SAP) is calculated as follows:

- a) First six weeks: SAP is paid at the Earnings-Related Rate of 90% of the employee's average earnings over the Relevant Period.
- b) Remaining 33 weeks: SAP is paid at the Prescribed Rate which is set by the government for the relevant tax year, or the Earnings-Related Rate if this is lower.

11.3 SAP accrues with each complete week of absence but payments will be made on the next normal payroll date. Income Tax, National Insurance and pension contributions will be deducted as appropriate.

11.4 If an employee leaves employment for any reason (for example, if they resign or are made redundant), the employee will still be eligible for SAP if they have already been notified by an agency that they have been matched with a child. In such cases, SAP will start:

- a) 14 days before the Expected Placement Date; or
- b) the day after the employment ends,

whichever is the latter.

11.5 If an employee becomes eligible for a pay rise before the end of their adoption leave, they will be treated for SAP purposes as if the pay rise had applied throughout the Relevant Period. This means that the employee's SAP will be

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recalculated and increased retrospectively, or that they may qualify for SAP if they did not previously qualify. The Trust will pay the employee a lump sum to make up the difference between any SAP already paid and the amount payable by virtue of the pay rise. Any future SAP payments at the Earnings-Related Rate (if any) will also be increased as necessary.

## **12. Additional Occupational Adoption Pay**

- 12.1 Employees will receive Additional Occupational Adoption Pay unless stated otherwise as follows:
- a) for the first six weeks of absence: employees will receive 90% of their average weekly earnings offset against SAP;
  - b) for the subsequent 12 weeks: employees will also be entitled to half pay. This is not offset against SAP except where the employee's combined pay and benefits exceed full pay; and
  - c) for the remaining 21 weeks: SAP is paid at the Prescribed Rate which is set by the government for the relevant tax year, or the Earnings-Related Rate if this is lower.
- 12.2 An employee will become entitled to receive Additional Occupational Adoption Pay after 12 months' continuous service.
- 12.3 A condition of entitlement to Additional Occupational Adoption Pay is that the employee must return to work after the Adoption Leave for a period of at least 3 months. If the employee does not do so, the Trust is entitled to recover part of the Additional Occupational Adoption pay paid to the employee.
- 12.4 The employee will not have to refund any of the SAP payments.

## **13. Terms and Conditions During OAL and AAL**

- 13.1 All the terms and conditions of employment remain in force during OAL and AAL, except for the terms relating to pay. In particular:
- a) benefits in kind such as life insurance, health insurance, gym membership (if applicable) will continue;
  - b) annual leave entitlement under their contract will continue to accrue (see section 13); and
  - c) pension benefits will continue (see section 14).

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## **14. Annual Leave (where applicable)**

- 14.1 During OAL and AAL, annual leave will accrue at the rate provided under an employee's contract.
- 14.2 Annual leave cannot usually be carried over from one holiday year to the next. If the holiday year is due to end during an employee's adoption leave, they should ensure that they have taken the full year's entitlement before starting their adoption leave.

## **15. Pensions**

- 15.1 During OAL and any further period of paid adoption leave, the Trust will continue to make any employer contributions that are usually made into a money-purchase pension scheme. These contributions will be based on what the employee's earnings would have been if they had not been on adoption leave, provided that the employee continues to make contributions based on the adoption pay they are receiving. If an employee wishes to increase their contributions to make up any shortfall from those based on their normal salary, then they must contact the Trust's Finance Team directly.
- 15.2 The period of OAL, and any further period of paid adoption leave, counts towards the Trust's final-salary pension scheme as pensionable service, provided the employee makes the necessary minimum contributions based on the adoption pay they are receiving.
- 15.3 During unpaid AAL, the Trust will not make any payments into a money-purchase scheme and the time will not count as pensionable service under the final salary scheme. The employee does not have to make any contributions, but they may do so if they wish, or they may make up for missed contributions at a later date.

## **16. Redundancies During Adoption Leave**

- 16.1 In the event that an employee's post is affected by a redundancy situation occurring during their adoption leave, the Trust will write to inform them of any proposals and will invite them to a meeting before any final decision is reached as to their continued employment. Employees on maternity and adoption leave will be given first refusal on any suitable alternative vacancies that are appropriate to their skills.

## **17. Disrupted Adoption**

- 17.1 In adoption or fostering for adoption cases, adoption leave is disrupted if it has started but the:

- a) employee is notified that the placement will not take place;
- b) child is returned to the adoption agency after placement; or
- c) child dies after placement.

17.2 In surrogacy cases, adoption leave is disrupted where the employee does not apply for a parental order within the relevant time, or the Court does not grant a parental order and the time limit for appeal or further application has expired, or where the child dies.

17.3 In the case of disruption, the employee's entitlement to adoption leave and pay (if applicable) will continue for a further eight weeks from the end of the week in which disruption occurred, unless their entitlement to leave and/or pay would have ended earlier in the normal course of events.

## **18. Keeping in Touch**

18.1 The Trust may make reasonable contact with the employee from time to time during their adoption leave.

18.2 The employee may work, including attending training, up to ten days (Keeping in Touch Days) during adoption leave without bringing their adoption leave to an end. This is not compulsory and arrangements must be discussed and agreed with the Director of Human Resources.

18.3 The employee will be paid at their normal basic rate of pay for time spent working on a Keeping in Touch Day and this will be inclusive of any adoption pay entitlement.

18.4 Shortly before an employee is due to return to work, the Trust may invite them to have a discussion, in person or by telephone, about the arrangements for their return. This may cover:

- a) updating the employee on any changes that have occurred during their absence;
- b) any training needs they might have; and
- c) any changes to working arrangements (for example, if the employee has made a request to work part-time) (see section 23).

## **19. Expected Return Date**

19.1 The Trust will expect the employee back at work on their Expected Return Date unless they tell the Trust otherwise (see paragraph 17, paragraph 19 and

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paragraph 20). It will help the Trust if, during their adoption leave, the employee is able to confirm that they will be returning to work as expected.

## **20. Returning Early**

- 20.1 If an employee wishes to return to work earlier than the Expected Return Date, they must give the Trust at least eight weeks' notice. This notice must be given in writing.
- 20.2 If an employee does not give enough notice, the Trust may postpone their return date until four weeks (or eight weeks as appropriate) after they gave notice, or to the Expected Return Date if sooner.

## **21. Returning Late**

- 21.1 If an employee wishes to return later than the Expected Return Date, they must request either:
- a) unpaid parental leave in accordance with the Trust's Parental Leave Policy, giving the Trust as much notice as possible but not less than 21 days; or
  - b) if applicable, paid annual leave in accordance with their contract, which will be at the Trust's discretion.
- 21.2 If an employee is unable to return to work due to sickness or injury, this will be treated as sickness absence and the Trust's usual Sickness Policy will apply (please see HR18 Staff Sickness Absence Policy).
- 21.3 In any other case, late return will be treated as unauthorised absence.

## **22. Deciding Not to Return**

- 22.1 If an employee does not intend to return to work, or is unsure, they must discuss this with their line manager as early as possible. If the employee decides not to return, they will be required to give notice of resignation in accordance with their contract of employment. The amount of adoption leave left to run when they give notice must be at least equal to their contractual notice period; otherwise the Trust may require the employee to return to work for the remainder of the notice period.
- 22.2 Once an employee has given notice that they will not be returning to work, they cannot change their mind and return to work without the Trust's agreement.
- 22.3 This does not affect the employee's right to receive SAP.

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## **23. Employee Rights Upon Return**

- 23.1 Employees are normally entitled to return to work in the same position as they held before commencing leave. Their terms of employment will be the same as they would have been had they not been absent.
- 23.2 However, if an employee has taken any period of AAL or more than four weeks' parental leave, and it is not reasonably practicable for the Trust to allow them to return into the same position, the Trust may give the employee another suitable and appropriate job on terms and conditions that are not less favourable.

## **24. Returning to Work Part-time**

- 24.1 The Trust will deal with any requests by employees to change their working patterns, such as working part time, after adoption leave on a case-by-case basis. There is no absolute right to insist on working part time, but employees do have a statutory right to request flexible working and the Trust will try to accommodate employee's wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the Trust. These requests must be made as early as possible. The procedure for making and dealing with such requests is set out in the Trust's Flexible Working Policy.

## **25. Switching to Shared Parental Leave**

- 25.1 In some cases, employees and their spouse or partner may be eligible to opt into the Shared Parental Leave Scheme (SPL). The employee's partner should check with their employer to see if they are eligible.
- 25.2 An employee would need to give at least eight week's written notice to end their adoption leave and opt into Shared Parental Leave. This can be done any time after the child is placed with the employee; however, the employee must take at least two weeks' adoption leave and they would then be able to share the remainder of their leave with their partner.

## **26. Policy Change**

- 26.1 This policy may only be amended or withdrawn by The Priory Federation of Academies Trust.



# **The Priory Federation of Academies Trust**

## **Adoption Leave Policy**

This Policy has been approved by the Pay, Performance and HR Committee:

Chair of the Committee

Signed..... Name..... Date:

Trustee

Signed..... Name..... Date:

Chief Executive Officer

Signed..... Name..... Date:

Designated Member of Staff

Please note that a signed copy of this agreement is available via Human Resources.